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10/630,529	07/30/2003	Anthony J. Baerlocher	0112300-753	9259
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K&L Gates LLP				
P.O. Box 1135				
CHICAGO, IL 60690				
EXAMINER				
HYLINSKI, STEVEN J				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
04/23/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary

Application No.

10/630,529

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

STEVEN J. HYLINSKI

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-22, 24-44 and 46-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-22, 24-44, and 46-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8, 11-22, 24-44, and 46-50 as rejected under *Seelig*, *Singer*, and *Walker* have been considered but are moot in view of the new ground(s) of rejection.
2. After revisiting the Luciano reference that had been previously relied on in the Office Action mailed 04/09/2008, Examiner believes that Luciano does meet the limitation of being an award wheel in which each of the sections are in a set position relative to each other section of the award distributor. Each object on Luciano's wheel, as shown in Fig. 6, is in a set angular position relative to each other object within the same ring (of rings **42**, **44**, **46**,) and in a set radial distance away from the objects of the other rings. In other words, each of the plurality of objects situated within each ring is stationary relative to the other objects within that ring, and also each ring is a fixed radial distance away from the other rings. The claim language is not specific enough about how the objects are constrained relative to each other, to preclude such an interpretation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 25 are rejected under 35 U.S.C 102 (e) as being unpatentable over Luciano (US 6,705,944 B2).

Re Claims 1 and 25,

Luciano discloses a gaming device (Fig. 1 10) comprising at least one display device (Fig. 1, wheel display 14 and spinning reel display 12), at least one processor (Fig. 4), and at least one memory device which stores a plurality of instructions which, when executed by the at least one processor, cause the at least one processor to operate with the at least one display device (Fig. 4, the base game controller interfaces with the base game reels and the secondary wheel controller to produce the gaming displays. Col. 5 Lines 63-65 state that the base game controller provides for "automated control" of both the slot reel game and the wheel game. Automated control of a game, under control of an electronic controller, must have some memory on which the instructions for the game are stored at least temporarily, if not permanently, or else the system would not function.) to: a) display an award distributor associated with the game, said award distributor including an award wheel which includes:

i) a plurality of sections displayed in a predetermined arrangement on said award distributor, said predetermined arrangement including each of the sections being in a set position relative to each other section of said award distributor (Each object on Luciano's wheel, as shown in Fig. 6, is in a set angular position relative to each other object within the same ring (of rings 42, 44, 46,) and in a set radial distance away from the objects of the other rings. In other words, each of the plurality of objects situated

within each ring is stationary relative to the other objects within that ring, and also each ring is a fixed radial distance away from the other rings. The claim language is not specific enough about how the objects are fixed relative to each other, to preclude such an interpretation.), each of said sections defined by one of a plurality of first coordinates and one of a plurality of second coordinates, wherein each first coordinate is associated with a group of the sections including a plurality of the sections and each second coordinate is associated with a group of sections including a plurality of sections as shown in Fig. 2, wherein the first coordinate is an angular coordinate and the second coordinate is a radial coordinate of the outer-most, middle and inner wheels [42,44 and 46, respectively], each of the first coordinates is associated with a group comprising a plurality of sections (i.e. the symbol appearing at a given angular coordinate for any given wheel), and each of the second coordinates is associated with a group comprising a plurality of sections (i.e. the symbols on a wheel for a given radial coordinate).

In column 8, line 18- col. 10, line 30, Luciano further discloses ii) a plurality of symbols, each of said symbols associated with one of a plurality of awards, wherein each of said plurality of sections of said award distributor is associated with one of said symbols (Fig. 2, each section defined by an angular coordinate and a radial coordinate contains an award symbol), (b) cause a display of said plurality of symbols and the awards associated with each of said symbols of the award distribute to the player upon initiation of said play of the game, (c) cause a section indicator associated with the award distributor (Fig, 2 pay line) to indicate one of said plurality of sections of the award distributor by: (i) determining one of the first coordinates associated with the

groups of the sections (ii) independently determining one of the second coordinates of one of the sections in said group of sections, and (iii) causing the section indicator to indicate the section in the group associated with the determined first and second coordinates, and (d) provide to the player the award associated with the symbol of the indicated section.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-8, 11-24, and 26-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luciano (US 6,705,944 B2), in view of Baerlocher et al. (US 6,336,863 B1).

Re claims 2 , 5, 14, 26, 29 and 36,

Luciano does not specifically disclose that the gaming device of claim 1 includes a probability of being determined associated with each of the first and second coordinates as only the first coordinate, i.e. the angular coordinate, is randomly determined. That is, in the primary embodiment of Luciano all wheels are spun such that there is no need to assign a probability of determining a second, i.e. radial, coordinate. However, Luciano discloses that the wheel moving commands may require "any or all of the wheels 42, 44 and 46 to be moved" (col. 8, lines 34-36). In this

embodiment, it would have been obvious to one of ordinary skill to randomly determine which one wheel of the three possible wheels will be moved, i.e. the radial coordinate, in addition to randomly determining the stopping position, i.e. angular coordinate.

Re claims 3, 4, 27, 28

Luciano discloses that the stopping positions of the reels are randomly determined utilizing a random number generator in a manner that is well known to one of ordinary skill (col. 8, lines 23-26). Luciano does not specifically disclose that all of the probabilities are the same. However, it would have been obvious to one of ordinary skill to weight each possible outcome such that they have an equal probability of occurrence, as evidenced by Broussard (US 6,364,767 B1), who teaches a spinning reel game wherein each outcome have an equal probability of occurring (col. 4, lines 27-30).

Re claims 7, 8, 21, 22, 31, 32, 43 and 44,

Luciano discloses the reel spin game featuring terminator symbols. Luciano does not specifically disclose the probability associated with the section including the terminator symbol is greater than the probabilities associated with a plurality of other sections. However, Luciano does disclose that the reel spin game outcome is randomly determined in a manner that is known to one of ordinary skill. It would have been obvious to one of ordinary skill to weight the outcome probabilities for each section in any manner desired, including to weight the terminator symbol outcome as having a higher chance of occurrence than other symbol outcomes, as evidenced by Broussard

(US 6,364,767 B1), who teaches a spinning reel game featuring this outcome weighting method in col. 4, lines 30-34).

Re claims 6 and 30,

Luciano discloses one of the sections includes a terminator symbol ("Oops! Lose Spin" Section, Fig. 2).

Re Claims 11 and 33,

Luciano discloses the awards include at least one of a value, a modifier, a multiplier, a free activation, a free spin and a free game (Fig. 2).

Re claims 12 and 34,

Luciano discloses a probability of being indicated by the section indicator is associated with each of the awards (col. 8, lines 23-26).

Re claims 13 and 35,

Luciano discloses the processor picks one of the total awards and repeatedly causes the section indicator to indicate section of the award distributor until the awards associated with the symbols on the indicated section accumulate to the total award (col. 8, lines 44-54).

Re claims 15 and 37,

Luciano discloses the symbols are game elements (Fig. 2).

Regarding claims 16-19 and 38-41,

Luciano discloses the section indicator including at least one or a plurality of illumination devices configured to illuminate indicia to the player (col. 10, lines 54-62, at least one means that more than one is an obvious extension with no unexpected

results). Luciano does not specifically disclose the section indicator including illumination devices configured to illuminate the sections of the award distributor. However, this would be an obvious variation of the section indicator disclosed by Luciano, as evidenced by Broussard (US 6,364,767 B1), who teaches a spinning reel game featuring illumination devices configured to illuminate sections of the award distributor in a simultaneous or alternate manner (col. 4, lines 4-14).

Re claims 20 and 42,

Luciano discloses a plurality of the sections include a terminator symbol (Fig. 2, "Oops! Lose A Turn", "Oops! Take Symbol From Bank").

Re claims 24 and 46,

Luciano discloses the gaming device includes a spin initiator controlled by the processor for enabling the player to cause the processor to initiate each movement of one of said wheel and said section indicator (Fig. 4, col. 8, lines 6-9).

Regarding claims 47 and 48,

Luciano discloses the steps (a) to (d) are provided through a controller located in the gaming device (Fig. 4, col. 5, line 63-col. 6, line 15). Luciano does not specifically disclose steps (a) to (d) are provided through a data network and wherein the data network is an internet. However, Luciano contemplates the gaming device having a network connection for communication purposes (col. 10, lines 38-42). Therefore, the device disclosed by Luciano is capable of receiving operating commands via a network, including an internet, and providing steps (a) to (d) via said network would have been obvious to one of ordinary skill in the art at the time of the invention, as it is notoriously

well known in the gaming art to do so. Response to Arguments Applicant's arguments with respect to claims 1-48 have been considered but are moot in view of the new ground(s) of rejection.

Re Claims 49-50

Changing the probability of indicating the sections during game play, is a design choice consideration because varying the probability of casino gaming outcomes during play is extremely well-known in the art, and applicant has not disclosed that varying the probability of indicating a section solves a stated problem, has a particular advantage, or serves a particular purpose. One of ordinary skill would have found the addition of varying the probability of indicating a section to yield merely predictable results, absent of any unexpected consequences.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. HYLINSKI whose telephone number is (571)270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
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